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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,565	08/24/2004	Ralf Wiedemann	102792-333	3643

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EXAMINER	
DOUYON, LORNA M	

ART UNIT	PAPER NUMBER
1751	

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/505,565	WIEDEMANN ET AL.	
	Examiner	Art Unit	
	Lorna M. Douyon	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 September 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 and 3-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 and 3-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. This action is responsive to the amendment filed on September 26, 2006.

2. Claims 1, 3-9 are pending.

3. The objection to the abstract of the disclosure is withdrawn in view of Applicants' amendment.

4. Claims 8-9 stand rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8-9 are indefinite in the recital of "using" step in line 1 of each claim because the claims merely recites "using" without any active, positive steps delimiting how this use is actually practiced.

5. The rejection of claims 8-9 under 35 U.S.C. 101 is withdrawn in view of Applicants' amendment.

6. The rejection of claims 1, 3-7, 8-14 under 35 U.S.C. 102(b) as being anticipated by Schulz et al. (US Patent No. 4,929,380) is withdrawn in view of Applicants' amendment.

7. Claims 1, 3-8 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Pfeiffer et al. (US Patent No. 6,492,312), hereinafter "Pfeiffer".

Pfeiffer teaches a water soluble sachet comprising a detergent composition a detergent composition having a discrete particle that enhances cleaning in a dishwashing machine (see abstract), wherein the dishwashing composition is a gel which comprises discrete particles having an approximate diameter from about 100 to about 5000 microns (5mm) (see col. 2, lines 60-63) and having a viscosity from about 100 to about 45,000 cps (about 100 to about 45,000 mPas) (see col. 4, lines 56-61). The discrete particles may be an encapsulated bleach (see col. 9, line 17+), which inherently have a density lower than the density of the composition. Suitable materials for the water soluble sachet include polyvinyl alcohol (see col. 3, lines 48-65). The dishwashing composition should inherently have a dispersion/dissolution time as those recited, considering the same liquid have been utilized. Hence, Pfeiffer anticipates the claims. Even if the teachings of Pfeiffer are not sufficient to anticipate the claims, it would have been nonetheless obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the density of the discrete particles, for example, the encapsulated bleach to have a density lower than the density of the dishwashing composition considering that the particles are described as discrete and would have dispersed/suspended/floated in the composition.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeiffer as applied to the above claims, and further in view of Dasque et al. (WO 01/60966), hereinafter "Dasque".

Pfeiffer teaches the features as described above. Pfeiffer, however, fails to disclose the water soluble sachet comprising a detergent composition for use in a laundry washing machine.

Dasque, an analogous art, teaches that a detergent composition in a water-soluble pouch comprising similar ingredients (see abstract) are prepared as laundry or dishwashing compositions (see page 21, lines 29-32), hence useful for laundry or dishwashing machines.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the product of Pfeiffer not only for dishwashing purposes but also for laundry washing because it is known from Dasque that a similar product is useful for both laundry and dishwashing applications.

9. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 2 of copending Application No. 10/505,624. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims are drawn to similar packaged detergent compositions comprising a liquid or fluid phase a solid having similar sizes and overlapping densities.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Response to Arguments

10. Applicants' arguments filed September 26, 2006 have been fully considered but they are not persuasive.

With respect to the anticipation rejection based upon Pfeiffer, Applicants argue that Pfeiffer does not expressly address the density of the discrete particles of its composition which is acknowledged by the Examiner who refers to the disclosure of Pfeiffer regarding encapsulated

bleach and asserts that Pfeiffer inherently discloses particles having a density lower than the density of the liquid. Applicants argue that Pfeiffer discloses discrete particulate encapsulated bleach and places particular emphasis on wax coated particles and nowhere is the density mentioned or the importance of the density discussed.

The Examiner respectfully disagrees with the above arguments because even though Pfeiffer does not explicitly disclose the wax coated particles having a density lower than the density of the liquid, i.e., water (see col. 5, lines 2-3, wherein water is the balance of the composition), it would be inherent for the wax coated particles to possess a density within those recited considering that the wax coating has a density lower than that of water.

With respect to the obviousness rejection based upon Pfeiffer, Applicants argue that Pfeiffer, as discussed above, does not expressly or inherently disclose the composition having at least one solid having a density lower than that of the liquid, and, accordingly, Pfeiffer also does not teach or suggest the present invention.

The above response applies here as well. In addition, as stated in paragraph 7 above, it would have been nonetheless obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the density of the discrete particles, for example, the wax encapsulated bleach to have a density lower than the density of the dishwashing composition considering that the particles are described as discrete and would have dispersed/suspended/floated in the composition.

With respect to the provisional obviousness type double patenting rejection, Applicants argue that a terminal disclaimer will be submitted if requested by the examiner considering the amendments in the instant application and if appropriate after allowance of the claims.

The provisional obviousness type double patenting rejection is maintained until such time Applicants will submit a timely terminal disclaimer.

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lorna M. Douyon whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Lorna M. Douyon
Primary Examiner
Art Unit 1751